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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,024	03/22/2004	Duane D. Giles	PGILBC	2240

7590 10/17/2006

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EXAMINER	
ARYANPOUR, MITRA	
ART UNIT	**PAPER NUMBER**
3711	

DATE MAILED: 10/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/807,024	GILES, DUANE D.	
	Examiner	Art Unit	
	Mitra Aryanpour	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 August 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-8* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Ellingsberg (6,371,861).

Regarding claim 1, Ellingsberg discloses billiard table comprising a table top (12) having an edge (top rail 20), an upper surface (playing surface 18) and a bottom surface (see figure 2) with the bottom being substantially parallel to the upper surface; soft, moveable pockets (28, 29, 30, 32; see column 5, lines 46-49) attached to said table top; a rail (20), having an inner edge, on top of the table top adjacent to the edge of the table top; a side cushion (22) adjacent to the inner edge of the rail (see figure 5); means for supporting the table top (a center support column "pillar portion 16" and a base "footed portion 15" positioned below the central support column 16 which has a lateral dimension; see figure 2). It is noted that the preamble, *a wheel chair-accessible billiards*, does not limit the structure of the claimed device because the portion of the claim following the preamble is a self-contained description of the structure and does not depend on the preamble for completeness.

It is further noted that the body of the claim which includes a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention

and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In the instant case, the intended use recitation does not patentably distinguish the claimed invention from the prior art of record.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 2-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellingsberg (6,371,861).

Regarding claim 2, Ellingsberg shows the tabletop can be attached to the pedestal using conventional lazy-susan hardware fittings. As it is commonly known bolts and screws are used in a lazy-susan.

Regarding claim 3, Ellingsberg further shows the table top comprises, a layer of slate, a layer felt, and a rail on top of the layer of felt and adjacent the edge of the table top (see column 5, lines 1-16). Ellingsberg does not expressly disclose the table assembly including a first and second layer of wood. It is customary to position one or two layers of wood under a slate surface, so the layer of wood can provide a means for evening supporting the weight of the slate surface and it would have been obvious to include the same for the table assembly of Ellingsberg.

Regarding claim 4, Ellingsberg does not expressly disclose the means for securing the rail to the layer of felt. At the time the invention was made, it would have been an obvious matter of

design choice to a person of ordinary skill in the art to use one or more bolts for securing the rail to the various table top layers, because Applicant has not disclosed that use one or more bolts, provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either the attachment means taught by Ellingsberg or the claimed attachment means because both attachment means perform the same function of securing the rail to various table top layers. Therefore, it would have been an obvious matter of design choice to modify Ellingsberg to obtain the invention as specified in claim 4.

Regarding claim 5, note the rejection of claim 4.

Regarding claim 6, note the rejection of claim 3.

Regarding claim 7, note the rejection of claim 4.

Regarding claim 8, note the rejection of claim 4.

Response to Arguments

Applicant's arguments filed 07 August 2006 have been fully considered but they are not persuasive. With regards to applicant's remarks on invoking the 112 6th paragraph i.e. means plus function, the 112 6th paragraph has been invoked, however, it only invokes the structure which forms the support i.e. central support column and base and not the function associated with the structure. The functional limitation "wherein said supporting means ..." only sets forth intended use and what the support structure is capable of doing. A careful review of the specification and claims reveals that the supporting means is merely a support column and a support base secured to the support column. The Ellingsberg patent discloses a support column (16) and a support base (15), which is capable of accommodating a wheel chair. It appears that in

order to fully claim the structure and function of the support, it would be necessary to claim the particular dimension as in applicant's previous application, now Patent No. 6,709,341. It is noted that claim 1 as presented would further read on the patent to McMillin 4,768,781, since this patent is directed to a height adjustable table which is able to accommodate a wheel chair.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitra Aryanpour whose telephone number is 571-272-4405. The examiner can normally be reached on Monday - Friday 10:00 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MA
10 October 2006

MITRA ARYANPOUR
PRIMARY EXAMINER